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**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**24 CFR Parts 200, 257, 4000, and 4001**

**[Docket No. FR-5790- F-01]**

**RIN 2501-AD68**

**Removal of HOPE for Homeowners Program Regulations**

**AGENCY:** Office of the Secretary, HUD.

**ACTION:** Final rule.

**SUMMARY:** Through this rule, HUD removes regulations for the HOPE for Homeowners Program. The statutory authority for this program expired September 30, 2011. Because these regulations are no longer operative, they are being removed by this final rule. To the extent that local programs are still ongoing under the following repealed parts, the removal of these regulations does not affect the requirements for transactions entered into when the regulations were in effect. Loans made under the HOPE for Homeowners Program that are presently insured will continue to be governed by the regulations that existed immediately before the effective date of this final rule.

**DATES:** Effective date: **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**FOR FURTHER INFORMATION CONTACT:** Camille E. Acevedo, Associate General Counsel for Legislation and Regulations, Office of General Counsel, Department of Housing and Urban Development, 451 7<sup>th</sup> Street, SW, Room 10276, Washington, DC 20410; telephone number 202-708-1793 (this is not a toll-free number). Persons with hearing or speech

impairments may access this number through TTY by calling the Federal Relay Service, toll-free at 800-877-8389.

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

The HOPE for Homeowners Act of 2008 (title IV of Division A of the Housing and Economic Recovery Act of 2008 (HERA) (Pub. L. 110-289, 122 Stat. 2654, approved July 30, 2008) added a new section 257 to the National Housing Act (NHA) (12 U.S.C. 1701z-22) that established a temporary program within HUD's Federal Housing Administration (FHA) that offered homeowners and mortgage loan holders (or servicers acting on their behalf) insurance on the refinancing of distressed mortgagors to support long-term sustainable homeownership and avoid foreclosure. Section 257 authorized FHA to refinance eligible mortgages commencing no earlier than October 1, 2008, and such authority to refinance expired on September 30, 2011. The fundamental principle behind the HOPE for Homeowners Act and the HOPE for Homeowners Program was that providing new equity for distressed homeowners may be an effective way to help homeowners avoid foreclosure.

The HOPE for Homeowners Act also established a Board of Directors to administer the program. The Board is composed of the Secretary of HUD, the Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System, and the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation or their respective designees. Section 257(c)(1) of the NHA requires the Board to establish program requirements and standards for the HOPE for Homeowners Program and prescribe such regulations and provide such guidance as may be necessary or appropriate to implement such requirements and standards. Under the administration of the Board, the HOPE for Homeowners Program

regulations were promulgated on October 6, 2008, at 73 FR 58418, and codified at 24 CFR part 4001.<sup>1</sup> By rule published on February 20, 2009, at 74 FR 7812, the Board of Directors adopted regulations that would govern access to records of the Board under the Freedom of Information Act. These regulations were codified at 24 CFR part 4000.<sup>2</sup>

The Emergency Economic Stabilization Act of 2008 (Pub. L. 110–343, 122 Stat. 3765, approved October 3, 2008) (EESA), specifically section 124 of EESA, amended section 257 of the NHA to provide additional flexibility and options to lenders participating in the HOPE for Homeowners Program. Among other things, section 124 of EESA authorizes upfront payments to a holder of an existing subordinate mortgage in lieu of providing the subordinate lien holder with a portion of HUD’s 50 percent interest in the future appreciation of the value of the property. On January 7, 2009, at 74 FR 617, the Board published a rule to implement the changes made by EESA.

On May 20, 2009, the President signed into law the Helping Families Save Their Homes Act of 2009 (Division A of Pub. L. 111–22, 123 Stat. 1632, approved May 20, 2009) (Helping Families Act). Section 202 of the Helping Families Act makes several amendments to section 257 of the NHA to enhance operation of the HOPE for Homeowners Program and to provide additional flexibility to participants. In addition, the Helping Families Act transferred responsibility, including rulemaking authority, for the HOPE for Homeowners Program from the Board of Directors to the Secretary of HUD. The Board of Directors would assist the program in an advisory capacity to the Secretary of HUD. With the transfer of responsibility for administration of the program from the Board of Directors to HUD, HUD promulgated new regulations for the HOPE for Homeowners Program that incorporated the changes made by

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<sup>1</sup> See <http://www.gpo.gov/fdsys/pkg/FR-2008-10-06/pdf/E8-23612.pdf>.

<sup>2</sup> See <http://www.gpo.gov/fdsys/pkg/FR-2009-02-20/pdf/E9-3582.pdf>.

EESA and the Helping Families Act. The regulations were published on January 12, 2010, at 75 FR 1686, and codified at 24 CFR part 257.

### **This Final Rule**

Although changes were made to the HOPE for Homeowners Program by EESA and the Helping Families Act, the expiration of the program was not altered and the authority for the HOPE for Homeowners Program expired on September 30, 2011. Accordingly, this final rule removes the regulations for the HOPE for Homeowners Program, codified in 24 CFR parts 257, 4000 and 4001. On June 10, 2011, FHA issued a mortgagee letter entitled “Termination of the HOPE for Homeowners (H4H) Program” that provided instructions to FHA-approved mortgagees on how to process cases during the phasing out of the HOPE for Homeowners Program. The mortgagee letter stated that to ensure close-out of the program by September 30, 2011, the date of expiration of the statutory authority for this program, FHA would not issue any case numbers for this program after July 29, 2011, and advised that eligible mortgages would not be insured after September 30, 2011.<sup>3</sup>

Mortgages presently insured under the program will continue to be governed by the regulations in effect **[insert date 30 days from publication in the Federal Register]**, and the contracts of mortgage insurance will not be affected by the removal of these regulations. Accordingly, this rule amends § 200.1301 (Expiring Programs – Savings Clause) of 24 CFR part 200, subpart W (Administrative Matters) to add a new paragraph (e) to § 200.1301, which lists the parts associated with the HOPE for Homeowners Program regulations and states that any existing loan assistance, ongoing participation, or insured loans under these parts will continue to be governed by the regulations in effect as they existed immediately before **[insert date 30 days**

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<sup>3</sup> See

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/administration/hudclips/letters/mortgagee/2011ml](http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/letters/mortgagee/2011ml).

**from publication in the Federal Register].** In addition to this amendment, HUD amends 24 CFR part 200, subpart W, to consolidate other expired regulations with savings clauses into a single section, § 200.1301. Accordingly, HUD removes § 200.1302, which listed additional expired programs.

## **II. Justification for Final Rulemaking**

HUD generally publishes a rule for public comment before issuing a final rule for effect, in accordance with HUD's own regulations on rulemaking in 24 CFR part 10. Part 10 provides, however, for exceptions to the general rule if the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is "impracticable, unnecessary, or contrary to the public interest." (See 24 CFR 10.1.)

HUD finds that public notice and comment are not necessary for this rulemaking because the authority for the HOPE for Homeowners Program expired on September 30, 2011; mortgages are no longer being insured under this program; and, therefore, the regulations are no longer operative. For these reasons, HUD has determined that it is unnecessary to delay the effectiveness of this rule in order to solicit prior public comment.

## **III. Findings and Certification**

### Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Because HUD has determined that good cause exists to issue this rule without prior public comment, this rule is not subject to the

requirement to publish an initial or final regulatory flexibility analysis under the RFA as part of such action.

### Unfunded Mandates Reform

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA)<sup>4</sup> requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector of \$100 million or more in any 1 year. If a budgetary impact statement is required, section 205 of UMRA also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule.<sup>5</sup> However, the UMRA applies only to rules for which an agency publishes a general notice of proposed rulemaking pursuant to the Administrative Procedure Act (APA).<sup>6</sup> As discussed above, HUD has determined for good cause that the APA does not require general notice and public comment on this rule and, therefore, the UMRA does not apply to this final rule.

### Executive Order 13132, Federalism

Executive Order 13132 (entitled “Federalism”) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. This final rule will not have federalism implications and would not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive order.

### Environmental Review

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<sup>4</sup> 2 U.S.C. 1532.

<sup>5</sup> 2 U.S.C. 1534.

<sup>6</sup> 2 U.S.C. 1532(a).

This final rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction; nor establish, revise or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this final rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

## **List of Subjects**

### **24 CFR Part 200**

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Home improvement, Housing standards, Incorporation by reference, Lead poisoning, Loan programs—housing and community development, Minimum property standards, Mortgage insurance, Organization and functions (Government agencies), Penalties, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

### **24 CFR Part 257**

Administrative procedures, Practice and procedure, Mortgage insurance, Reporting and recordkeeping requirements.

### **24 CFR Part 4000**

Loan programs, Mortgage insurance, Access to information.

### **24 CFR Part 4001**

Administrative procedures, Practice and procedure, Mortgage insurance, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, and under the authority of 42 U.S.C. 3535(d), amend title 24 of the Code of Federal Regulations as follows:

## **PART 200- INTRODUCTION TO FHA PROGRAMS**

1. The authority citation for part 200 continues to read as follows:

Authority: 12 U.S.C. 1702-1715z-21; 42 U.S.C. 3535(d).

2. Revise §200.1301 to read as follows:

**§ 200.1301 Expiring programs—Savings clause.**

(a) No new loan assistance, additional participation, or new loans are being insured under the programs listed in this section. Existing loan assistance, ongoing participation, or insured loans under the programs shall continue to be governed by regulations in effect as described in this section.

(b) Any existing loan assistance, ongoing participation, or insured loans under the programs listed in this paragraph will continue to be governed by the regulations in effect as they existed immediately before October 11, 1995 (24 CFR parts 205, 209, 224 - 228, 240, 277, 278, 1994 edition):

(1) Part 205, Mortgage Insurance for Land Development (Title X of the National Housing Act, repealed by section 133(a) of the Department of Housing and Urban Development Reform Act of 1989 (Public Law 101-235, approved December 15, 1989).

(2) Part 209, Individual Homes; War Housing Mortgage Insurance (12 U.S.C. 1736-1743).

(3) Part 224, Armed Services Housing- Military Personnel (12 U.S.C. 1736-1746a).

(4) Part 225, Military Housing Insurance (12 U.S.C. 1748b).

(5) Part 226, Armed Services Housing- Civilian Employees (12 U.S.C. 1748h-1).

(6) Part 227, Armed Services Housing- Impacted Areas (12 U.S.C. 1478h-2).

(7) Part 228, Individual Residences; National Defense Housing Mortgage Insurance (12 U.S.C. 1750 as amended by 42 U.S.C. 1591c).

(8) Part 240, Mortgage Insurance on Loans for Fee Title Purchase (12 U.S.C. 1715z-5).

(9) Part 277, Loans for Housing for the Elderly or Handicapped (12 U.S.C. 1701q).

(10) Part 278, Mandatory Meals Program in Multifamily Rental or Cooperative Projects for the Elderly or Handicapped (12 U.S.C. 1701q).

(c) Any existing loan assistance, ongoing participation, or insured loans under the programs listed in this paragraph will continue to be governed by the regulations in effect as they existed immediately before May 11, 1996 (24 CFR parts 215, 222, and 237, 1995 edition):

(1) Part 215, Rent Supplement Payments Program (12 U.S.C. 1715f).

(2) Part 222, Service Person's Mortgage Insurance Program (12 U.S.C. 1715m).

(3) Part 237, Special Mortgage Insurance for Low and Moderate Income Families (12 U.S.C. 1715z-2).

(d) Any existing loan assistance, ongoing participation, or insured loans under the program listed in this paragraph will continue to be governed by the regulations in effect as they existed immediately before December 26, 1996 (24 CFR part 233, 1995 edition):

(1) Part 233, Experimental Housing Mortgage Insurance Program (12 U.S.C. 1715x).

(2) [Reserved]

(e) Any existing loan assistance, ongoing participation, or insured loans under the program listed in this paragraph will continue to be governed by the regulations in effect as they existed immediately before **[insert date 30 days from publication in the Federal Register]** (24 CFR part 257):

(1) Part 257, HOPE for Homeowners Program (12 U.S.C. 1701z-22).

(2) [Reserved]

§200.1302 [Removed]

3. Remove § 200.1302.

**PART 257 [Removed]**

4. Remove part 257.

**PART 4000 [Removed]**

5. Remove part 4000.

**PART 4001 [Removed]**

6. Remove part 4001.

Dated: July 8, 2014.

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Shaun Donovan,  
Secretary.

**[FR-5790-F-01]**

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